IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

THURSDAY 11TH OCTOBER 2007 / 19TH ASWINA 1929

LA.App..No. 1032 of 2000()

L.A.R NO.104 OF 1991 OF THE SUB COURT , THRISSUR

APPELLANT:

IYPE ALAPPATT 'AVE MARIA' KARANCHIRA P.O
THRISSUR DISTRICT

BY ADV. SRI.P.RAVINDRAN

RESPONDENTS:
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1. **THE SPECIAL TAHSILDAR (L.A.) THRISSUR MUNICIPALITY THRISSUR**

2. **THE THRISSUR MUNICIPALITY, THRISSUR REPRESENTED BY THE MUNICIPAL COMMISIONER, THRISSUR**

3. **THE STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT OF KERALA, SECRETARIAT, THIRUVANANTHAPURAM**

BY ADV. SRI.K.B.MOHANDAS,SC,THRISSUR CORPORATION
ADV SRI.K.A.SREEJITH SC, THRISSUR CORPORATION
BY GOVT. PLEADER SRI.K.V.MANOJ KUMAR

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 27/09/2007, ALONG WITH L.A.A. 1421 /2000 AND CONNECTED CASES THE COURT ON 11-10-2007 DELIVERED THE FOLLOWING:

KURIAN JOSEPH & HARUN-UL RASHID, JJ.

L.A.A. Nos 1032,1077, 1356, 1400 & 1421 of 2000

Dated this the 11th day of October 2007

JUDGMENT

Harun -Ul-Rashid,J.

The above appeals are filed by the claimants in L.A.R. Nos 104/1991, 103/1991 97/1991, 102/1991 and 98/1991 respectively. The extents of land under acquisition in the above L.A.R cases are 0.0950 hectares, 0.0846 hectares, 0.0315 hectares, 0.0640 hectares and 0.0117 hectares respectively. All the properties are situated in Chembukavu village in Thrissur Taluk The purpose of acquisition was for the residential development of East Ring Road (Rehabilitation Scheme) . The notification under Section 4 (1) of the Land Acquisition Act was published on 25-3-1988. The acquired lands are admittedly wet land. The Land Acquisition Officer has fixed the market value for the acquired land at the rate of Rs. 7,410/- per are. (Rs. 3,000 per cent) According to the appellants/claimants the lands under acquisition are located in an important commercial centre of Thrissur town, that it is lying on the eastern side of N.H 47, that several public offices, hospitals, educational institutions, Banks etc are situated near the acquired lands. Considering the importance of the acquired lands according to the claimants it fetches Rs. 40,000/- per cent on the date of acquisition.

2. The claimants examined AW 1 to AW4 and marked Ext. A1 to

A5. RW1 was examined on the side of the respondent. The reference court originally passed a decree and judgment granting enhancement . The Thrissur Municipality which is the requisitioning authority challenged the said judgment and decree before the High Court of Kerala. The High Court set aside the decree and judgment and remanded the case for fresh consideration after allowing the Thrissur Municipality to take part in the proceedings. After remand the Thrissur Municipality has filed a separate statement contending that the valuation made by the Land Acquisition Officer is fair and reasonable and that the award requires no modification. The parties also adduced further evidence . After remand the court below after comparing the lands covered by R1 documents and the acquired land, held that from the description of the boundaries of Ext.R1 land shows that Ext.R1 land is not lying by the side of a public road. At the same time admittedly the acquired lands are lying on the side of the East Ring Road . After recording the reasons, the reference court found that the property covered by Ext.R1 is not similar to the property that are acquired in the reference cases. The court below elaborately examined the relative importance of Ext.A1 to A5 lands and the acquired lands. For so many reasons the court below found that the properties covered by the documentary evidences produced by the claimants are not convincing enough to ascertain the market value of the acquired land. Thereafter the court below examined the potential value of the acquired land and held that considering the importance of the acquired lands, proximity to the town, the potentiality of the area and accessibility to East Ring Road the

learned Sub judge has inclined to hold that Rs. 12,000/- per cent will be reasonable and fair value for the acquired land on the date of the notification.

3. The claimants not satisfied with the rate of fixation of land value by the court below , has filed all these appeals claiming further enhancement. We have determined the land value fixed in L.A.R. 100/1991 in L.A.A 1338 of 2000 . In that case also the Land Acquisition Officer fixed the land value at the rate of 7,410/- per are as in these cases. The property is lying in the same village and is similar to the acquired land in all respects. That is the reason why the same value was granted for all the properties in these cases. We have determined the land value at Rs. 12,000/- per cent taking into account the high potential value of the land and its commercial importance.

4. The counsel for the appellants/ claimants contended that the fixation of the land value at the rate of 12,000/- per cent is illegal and unjust and therefore it has to be redetermined The land under acquisition in L.A.R. 100/1991 (L.A.A. 1338 of 2000)is also similarly situated. Considering the importance of the lands it's nearness and importance to the institutions and also taking into consideration the documentary evidences as well, we have determined the land value at Rs. 12,000/- per Cent. The same amount was fixed as the land value in all these cases on re-determination by the reference court after considering the entire facts and evidences elaborately. Therefore the market value fixed in the above L.A.R. cases are fair and reasonable.

5. It is lastly contended by the learned counsel for the claimants that the extent acquired in L.A.R. No. 97/1991 is only 0.0315 hectares and in L.A.R.No. 98/1991 is 0.0117 hectares, that considering the extent of the land acquired in the other three L.A.R cases and in L.A.R. 100/1991 the fixation of the same rate for the small plots is unjust and requires redetermination. Since the plots in the other three L.A.R cases and in L.A.R. 100/1991 (L.A.A 1338 of 200) are having larger extent and the properties covered by L.A.R. 97/1991 and 98/1991are small plots we are of the view that the contention raised by the counsel for the claimants assumes significance. The fixation of the market value of the properties in L.A.R. Nos 97 & 98 of 1991 are redetermined and re-fixed at the rate of Rs. 15,000/- per cent. In the other three LAR cases the land value determined by the reference court is confirmed.

6. In the result, we modify the decree and judgment in L.A.R. Nos 97 & 98 of 1991. The claimant in the above said L.A.R. cases are entitled to an additional land value of Rs, 3,000/- per cent and all eligible statutory benefits. The three other L.A.R cases requires no modification and therefore the decree and judgment passed in L.A.R. Nos. 102/1991 103/1991 and 104/1991 will stand confirmed.

KURIAN JOSEPH, JUDGE

HARUN-UL RASHID,JUDGE

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